

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 12/19/06
AGENDA ITEM _____
WORK SESSION ITEM WS #2

TO: Mayor and City Council
FROM: Director of Community and Economic Development
SUBJECT: Conversion of Residential Rental Complexes to Ownership Housing

RECOMMENDATION:

It is recommended that the City Council and Planning Commission review and comment on this report.

DISCUSSION:

On October 11, 2005, the City Council held a work session to discuss City ordinances and policies relating to the conversion of apartments to condominiums. The City Council then directed staff to develop potential amendments to the "condominium conversion" sections of the City's Subdivision Ordinance to address some of the issues they raised during the work session.

At its December 20, 2005, meeting, City Council adopted an interim moratorium on land use approvals of condominium conversions; and, on January 24, 2006, extended the moratorium until December 18, 2006. Since that time, three meetings were held with interested individuals and members of the development community to obtain their input on an amended ordinance related to conversions, the ordinances of other jurisdictions were studied, and associated draft environmental documents were prepared.

In March 2006, a meeting was held with members of the residential development community and representatives of the rental community to obtain preliminary feedback on issues related to conversions. Two additional meetings were held more recently on November 29 and December 5 of this year to discuss some changes to the conversion ordinance being suggested by staff. The ordinance reflects some of the comments provided at the meeting, particularly with regard to relocation assistance and reduced sales price for existing tenants, and lifetime leases.

Because apartments are not the sole source of rental housing, staff is recommending expanding the scope of the ordinance to include all rental housing complexes, including detached, for-rent single-family dwellings on a single parcel. For example, the City Council recently approved a rezoning request to "Planned Development" for property on Gading Road consisting of a series of detached rental homes on a single parcel. In that instance, the project did not fall under the City's current provisions for converting rental stock to ownership housing, and the renters claimed that

they were given inadequate and untimely notices and were dissatisfied with their perceived lack of rights.

The purpose of this work session is to discuss the issues associated with an ordinance addressing the conversion of rental complexes to ownership housing before proceeding with the public hearing and decision-making processes. A draft amended ordinance is attached as Exhibit A. Additionally, Exhibit B is a matrix comparing the proposed ordinance to similar ordinances in nearby cities. The major features associated with the draft ordinance are indicated below.

1. Units Subject to Amended Ordinance.

Presently, the conversion of four or fewer rental units to ownership housing does not fall under the City's Subdivision Ordinance. However, much of Hayward's rental stock may be found within smaller complexes. For this reason, staff is recommending that the ordinance be amended to include tri-plexes and four-plexes as well as larger developments. [Sec. 10-3.360]

2. Notice to Tenants

The noticing requirements are consistent with those required by State law; however, staff is recommending requiring that all notices be provided in both English and Spanish, as well as in the language of the written rental or lease agreement in recognition of Hayward's diversity. [Sec. 10-3.370 (a) 1.]

3. Tenant Assistance

For assistance to tenants who must seek other housing due to displacement associated with conversion of their unit to ownership housing, the current ordinance requires a "tenant assistance plan." This plan describes "those incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion, and shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants." The tenant assistance plan was required to include life-time leases for the elderly (defined as age 62 years and older) and the disabled and two-year leases for households with children. It also provides for payment in the difference in rents between another comparable rental unit if located within a 50-mile radius for a one year period.

The proposed ordinance would eliminate the requirement for a "tenant assistance plan" and state specifically how assistance would be provided. For example, like the existing ordinance, moving expenses in the amount of \$1,000 would be required; however, the amended ordinance would also require the payment of the equivalent of three months' rent to cover typical expenses associated with a new lease, i.e., first months' rent, a security deposit, or increased rental rate. As the rental stock decreases the rents can be expected to increase, so some of this payment could be used to pay for increased rents. The equivalent of one month's rent would be required to be paid to the tenant 30 days prior to the tenant moving out, and the remaining equivalent of two months' rent would be paid upon the tenant vacating the premises. Life-time leases for the elderly and disabled are no longer recommended. The proposed amended ordinance would set the age for an elderly individual at 65 and limit the leases for the elderly and disabled to either five years or one year for every year of tenancy,

leases associated with households with children would be reduced from the existing 2 years to 6 months or the end of the school year, whichever occurs later. [Sec. 10-3.370 (c) 1., 2. and 4.]

4. Assistance to Tenant Purchasers

The current ordinance adopted in 1995 requires subdividers to provide financial assistance to tenant purchasers in the amount of \$1000 per household toward down payment or closing costs. The proposed ordinance would require subdividers to reduce the cost of the purchase price of a market-rate unit by 10 percent for tenants wishing to purchase their own unit and a 5 percent reduction for tenants wishing to purchase a different unit in the same complex. In addition to these provisions, other tenants may find it feasible to purchase a unit under the City's Inclusionary Housing Ordinance. Since the adoption of the previous conversion ordinance, the City adopted its Inclusionary Housing Ordinance, which is applicable to the conversion of rental stock to condominiums. This Ordinance requires that 15 percent of converted units be made available for sale to households at 120 percent of the area median income. [Sec. 10-3.370 (c) 3. (bb)]

5. City Oversight of Applications to Convert Residential Rental Complexes to Ownership Housing

The proposed ordinance would require Site Plan Review for all conversion applications to insure compliance with the City policies, design standards, and ordinances. Site Plan Review would provide an opportunity to insure that aesthetic issues and common area maintenance would be addressed. These issues may include landscaping, paving, painting the exterior of the buildings, group usable open space, and possibly architectural enhancements such as window trim, canopies, Juliette balconies, pot sills, new entry doors, etc., to otherwise unfortunate appearing structures.

The site plan review process could run consecutively with the application to convert the rental properties to ownership housing. The current ordinance does not contain this provision. [Sec. 10-3.375 (a)]

6. Condition of Buildings

The current ordinance is non-specific about what standards should be met in order to offer buildings for sale. For example, the current ordinance requires a random sample of the units to determine if they would be eligible for issuance of Certificates of Occupancy based on the building code in effect at the time of inspection. It could be very onerous for many older rental complexes to meet a standard requiring that the current building code be met. For example, meeting the current building code could result in lowering most of the windows in buildings and modifying floors, ceilings and walls for noise attenuation purposes.

The proposed ordinance contains proscriptive upgrades for structural, electrical, plumbing noise, and fire safety systems. One important item for structural upgrade is to identify and correct any soft-story conditions in buildings to be converted. An important fire/life-safety

requirement is to have all smoke detectors hard-wired, but installation of sprinklers is not required. These provisions are intended to provide for the health and safety of the residents without requiring significant and costly modifications to buildings simply in order to meet the most current building code. [Sec. 10-3.375 (d) 1. – 10-3.375 (d) 7.]

7. Density and Development Standards

The current ordinance requires that a conversion project meet the standards of the Municipal Code and General Plan, which should be interpreted to mean that parking standards, usable open space standards, density, and setback requirements would have to be met. The proposed ordinance also indicates that the requirements of the Municipal Code, which includes the Zoning Ordinance and the Off-Street Parking Regulations, must be met. In effect, no non-conforming development, i.e., having more dwelling units than currently allowed, could be converted to ownership housing. Essentially, in order to convert nonconforming rental projects to for-sale housing, the number of dwelling units in some nonconforming projects would have to be reduced. The reduction in the number of dwelling units could be achieved by combining units to create a unit with more bedrooms (3 to 4) and living space. According to Hayward's Housing Element, only 4.5 percent of rental units have 3 bedrooms, which are much in demand by families with children or extended families [Sec. 10-3.375 and Sec. 10-3.375 (d) 9.]

Some of the benefits of allowing conversions only of rental properties that are consistent with the Zoning Ordinance and the General Plan is that the resulting ownership project would meet the City's long-term goals, and the reduction of dwelling units could result in combining units to create larger units. It should be pointed out that requiring conformity with the General Plan and Zoning Ordinance could dissuade some subdividers from converting rental housing to ownership housing.

By providing for adequate open space as currently defined in the Zoning Ordinance, new home buyers would enjoy the ability to recreate in or otherwise enjoy open space associated with their developments. If additional outdoor space is required to meet usable open space requirements and there is no other area in which to provide it, then a dwelling unit(s) may have to be eliminated, either by physically removing it or by merging it with another dwelling unit to create a single, larger unit or recreation space.

When the available parking within rental complexes does not meet the current minimum number of required parking stalls, in order to convert to ownership housing, it may be necessary to either (a) increase the number of parking stalls by encroaching into landscaped areas or (b) reduce the number of dwelling units. The benefit would be that the parking demand would be better met. An indirect benefit might be that the number of dwelling units would have to be combined, which would result in an increase in the number of larger units.

8. Ability of a Homeowners' Association (HOA) to Effectively Maintain Property

The current ordinance does not require that a professional management company oversee the budgeting associated with HOAs, so that effort could be left to property owners who serve on

HOA boards. The proposed ordinance would require a professional property management company to oversee the budgeting associated with HOAs when a project consists of 15 or more dwelling units. When there is no professional management company overseeing these activities, individual homeowners must self-manage their HOA. Individual homeowners do not always have the accounting knowledge to deal with budgeting and associated issues, particularly deferred maintenance, do arise. However, very small ownership developments seldom have the economies of scale to find full-service management affordable. Due to administrative costs associated with professional management companies, it may not be feasible to require them when there are fewer than 15 dwelling units. [Sec. 10-3.385]

Once the CC&Rs and budget of a homeowners' association are approved by the State Department of Real Estate for a residential development of five or more units, it is up to the homeowners, not the State, to prepare subsequent yearly budgets and to maintain the development in accordance with the CC&Rs. There is no State oversight beyond the initial creation of the CC&Rs and initial budget. If the HOA becomes inactive and the maintenance system fails, the remedy involves a civil action between homeowners or between the HOA and the homeowner(s).

The current ordinance allows the City to abate public nuisance conditions in the common areas of ownership housing complexes when HOAs fail to do so. This ability remains in the proposed ordinance.

The City of Manhattan Beach requires the payment of "Contingency Fees" in conjunction with condominium conversions. The intent of that city in requiring the creation of a contingency or reserve fund for conversions is to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. Upon the close of escrow for each unit, the applicant is required to convey to the HOA contingency fund a minimum fee of \$200 per dwelling unit. When 50 percent or more of the total units in the project have been sold, the applicant, within 30 days, must convey such fee for each of the unsold units. Such funds are to be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the HOA. This provision is also included in the proposed Ordinance for the same reasons. [Sec. 10-3.377]

Next Steps:

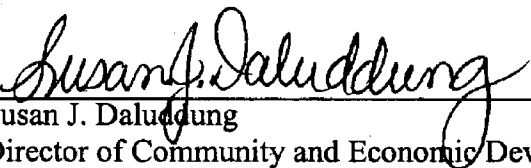
Following this work session, public hearings are scheduled for January before the Planning Commission and February before the City Council. In the meantime, individuals who are known to be interested in converting rental property to ownership property and have recently submitted requests for such conversions have been advised of the status of the amended conversion ordinance and the process involved in submitting an application for a conversion project. This information is also being provided in the City's Permit Center.

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Recommended by:



Susan J. Daluddung
Director of Community and Economic Development

Approved by:



Jesús Armas, City Manager

Attachments:

- Exhibit A: Proposed Text Amendments
- Exhibit B: Matrix Comparing Hayward's Proposed Ordinance with Other Communities

12/14/06

CONVERSION OF RESIDENTIAL RENTAL DEVELOPMENTS
TO COMMON INTEREST DEVELOPMENTS

- 10-3.350 INTENT AND PURPOSE
- 10-3.555 DEFINITIONS
- 10-3.360 PARCEL MAP REQUIRED
- 10-3.365 TENTATIVE MAP FOR CONDOMINIUM
OR COMMUNITY APARTMENTS
- 10-3.370 ADDITIONAL REQUIREMENTS FOR
CONVERSION TO COMMON INTEREST
DEVELOPMENTS
- 10-3.375 STANDARDS OF DEVELOPMENT
- 10-3.380 UTILITIES
- 10-3.385 ORGANIZATIONAL DOCUMENTS
- 10-3.392 INFORMATION TO PRECEDE FINAL MAP
SUBMISSION
- 10-3.395 PREPARATION AND FORM OF FINAL MAP

DEDICATIONS AND RESERVATIONS

- 10-3.400 DEDICATION FOR STREETS AND UTILITIES
- 10-3.405 SCHOOL SITE DEDICATIONS
- 10-3.410 WAIVER OF DIRECT ACCESS TO STREETS
- 10-3.415 RESERVATIONS

FEEES

- 10-3.420 PROCESSING FEES
- 10-3.425 BRIDGE CROSSINGS AND MAJOR
THOROUGHFARE FEES
- 10-3.430 DRAINAGE AND SEWER FACILITIES FEES

REIMBURSEMENT

- 10-3.440 REIMBURSEMENT

CONVERSION OF RESIDENTIAL RENTAL PROJECTS TO COMMON INTEREST DEVELOPMENTS

SEC. 10-3.350 INTENT AND PURPOSE. Common Interest Developments create conditions that may result in a negative impact on the public health, safety, welfare, and economic prosperity for the City. It is the intent of the City to establish rules and standards that regulate the construction of and conversion to residential Common Interest Developments in the City in order to provide opportunities for home ownership while protecting the interests of the tenants.

Said rules and standards shall apply to a subdivision initially created as a Common Interest Development or a single-family rental complex, and the conversion of an existing multi-family unit to a Common Interest Development, and the conversion of an existing single-family rental complex to ownership housing. This ordinance does not apply to "second units," sometimes referred to as "granny" or "in-law" units. The conversion of industrial and commercial units shall be in accordance with the State Subdivision Map Act.

SEC. 10-3.355 DEFINITIONS. Whenever any of the following names or terms are used herein, each such name or term shall be deemed and construed to have the meaning ascribed to it as follows:

- (a) Association. The persons who own a condominium or right of exclusive occupancy in a community apartment unit.
- (b) Common Area. The entire project excepting all units therein.
- (c) Common Interest Development. A Common Interest Development means any of the following:
 - 1. A community apartment project.
 - 2. A condominium project.
 - 3. A planned development.
 - 4. A stock cooperative.
 - 5. Townhouse.
- (d) Community Apartment. An estate in real property existing of individual interest in common in a parcel of real property in the improvement, therein coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon.
- (e) Community Housing. Includes the following: a condominium development, a community apartment project, and a stock cooperative or membership association. Excludes a limited equity housing cooperative as defined in section 11003.4 of the Business and Professions Code for purposes of conversion.

- (f) **Condominium Project.** A “condominium project” means a development consisting of two or more condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- (g) **Conversion.** A change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined as community housing, regardless of the present or prior use of such land or structures and whether improvements have been made or are to be made to such structures.
- (h) **Disabled Tenant.** A disabled tenant is any tenant who is on the lease or rental agreement, if any, and who has a physical impairment which substantially limits one or more of such person’s major life activities, has a record of such impairment, or is regarded as having such an impairment.
- (j) **Elderly Tenant.** An elderly tenant is any tenant who is 65 years of age or older and who is on the lease or rental agreement, if any.
- (j) **Organizational Documents.** The declaration of covenants, conditions, restrictions, articles of incorporation, bylaws, and any contracts for maintenance, management or operation of all or any part of a project.
- (k) **Planned Development.** Planned Development means a development (other than a community apartment project, a condominium project, or a stock cooperative) having either or both of the following features:
 - (1) The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
 - (2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment which may become a lien upon the separate interests.
- (l) **Project.** The entire parcel of real property divided, or to be divided, into condominiums or community apartments, including all structures thereon.
- (m) **Recreational Open Space.** The open space on the project that complies with applicable provisions of the Zoning Ordinance.
- (n) **Single-Family Complex.** Three or more single-family dwellings on a single parcel of land owned by a single entity.
- (o) **Single-Family Rental Complex.** Three or more single-family dwellings on a single parcel of land owned by a single entity.

- (p) Stock Cooperative. A corporation which is formed or availed primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy.
- (q) Townhouse. For purposes of this ordinance, a townhouse is one unit in a row of houses connected by common side walls. The ownership of a townhouse unit extends throughout the unit, including walls and roof and the ground upon which the unit sits. Additional land, in the form of private, attached space, may be included in ownership space of the townhouse.
- (r) Unit. The elements of a condominium that are not owned in common with the owners of other condominiums in the project, or is an apartment in a community apartment project to which the owner has a right of exclusive occupancy.

SEC. 10-3.360 PARCEL MAP REQUIRED. A parcel map is required for a Common Interest Development when there are three or four units.

SEC. 10-3.365 TENTATIVE MAP FOR Common Interest Developments. The tentative map shall contain all the information required on a tentative map for any subdivision, plus the following in order to adequately review the proposal:

- (a) The location indicated to the nearest one-half foot of the perimeter of the building or buildings in relationship to the parcel boundaries;
- (b) Estimated square footage of each unit and number of rooms in each unit;
- (c) General layout of all common areas;
- (d) General layout and location of all facilities and amenities provided within the common area for the use and enjoyment of the unit owners;
- (e) General layout of all parking spaces and driveways;
- (f) Public areas proposed for dedication, scenic easements proposed;
- (g) Tree and landscaping removal or planting proposed.

SEC. 10-3.370 REQUIREMENTS FOR CONVERSION OF MULTI-FAMILY AND SINGLE-FAMILY RENTAL PROPERTY TO COMMON INTEREST DEVELOPMENTS

- (a) Notification of Tenants and Prospective Tenants.
 - 1. Each notice shall be provided in both English and Spanish and in the language used in the original lease or rental agreement. At least 60 days prior to the time of the filing of an application for a tentative map for the

conversion of rental units to a Common Interest Development , the subdivider shall send to each tenant of the rental units to be converted the following notice:

To the occupant(s) of

(address)

The owner(s) of this rental development at (address), plans to file an application with the City of Hayward to convert this rental development to a Common Interest Development . You shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

2. Commencing at a date not less than 60 days prior to the submittal of an application for a tentative map for the conversion of rental units to a Common Interest Development, the subdivider shall give notice of such application to each person applying after such date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider. The notice shall be as follows:

To the prospective occupant(s) of

(address)

The owner(s) of these units at (address), has submitted an application or plans to submit an application for a tentative map with the City of Hayward to convert these units to a Common Interest Development.. No units may be sold unless the conversion is approved by the City of Hayward, and until after a public report is issued by the Department of Real Estate when the conversion involves five or more dwelling units. For a three- or four-unit development, no units may be sold until the parcel map has been filed. If you become a tenant of this development, you shall be given notice of each hearing for which

notice is required pursuant to sections 66451.3 and 66452.5 of the Government Code and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

I have received this notice on _____
(date)

(prospective tenant's signature)

Pursuant to 2. above, if the subdivider or his or her agent fails to give notice, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, and who does not purchase his or her unit pursuant to paragraph 4 of subsection (b), an amount equal to the sum of the following:

- (aa) Moving expenses in the amount of \$1,000 to be paid prior to moving.
- (bb) The equivalent of three months' rent, based on the highest rent paid by the tenant, with one-third to be paid one month prior to the move date and the other two thirds paid upon vacating the premises.

3. Within 10 days after the submittal of an application for a tentative map for the conversion of rental units to a Common Interest Development, the subdivider shall send to each tenant, and provide to each person who becomes a tenant at any time subsequent to such date, a written notice containing the following information:

- (aa) That the owner of the development in which the tenant resides has submitted an application with the City to convert the units to a Common Interest Development, the date such application was made, and if approved, that tenants will eventually be required to move unless they purchase a unit or qualify for and accept an offer of a lease as provided in this ordinance;
- (bb) That each tenant will be given at least 10 days' prior written notice by the City (at subdivider's expense) of the date, time, and place of any hearing held on the tentative map application by the Planning Commission or City Council and the availability of any staff report related to the hearing.

- (cc) That each tenant will be notified in writing of the approval of the final map approving the conversion, if it is approved, within 10 days of such action; and
 - (dd) Each tenant will receive 10 days' written notification from the subdivider that a final or parcel map has been recorded and the implications of that filing.
 - 4. Accompanying the notices required by paragraphs 1 and 2 of subsection (a) above shall be written information describing, in general terms, what steps and actions the subdivider and others, including governmental agencies, must take in order for the units to be converted to a Common Interest Development. It shall also include information on what rights the tenants have as set forth in subsection (b) below. All documents referred to in this subsection shall be in a format approved by the Planning Director.
 - 5. With the exception of 3 (bb) above, all notices referred to in this section shall be sent by certified mail by the subdivider..
- (b) Tenant Rights on Conversion. With regard to any conversion as defined above, each tenant shall have the following rights.
- 1. After receipt of the notice of intent to convert, each tenant will be permitted to terminate any lease or rental agreement without penalty upon written notification to the subdivider at least 30 days in advance of such termination, provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the units as evidenced by formal withdrawal of the application for subdivision approval.
 - 2. If a dwelling unit is rented to tenant(s) subsequent to the submittal of an application for a tentative map, the tenant shall be advised of the owner's intent to convert the unit to a Common Interest Development. This information shall be included in each lease or rental agreement, if there is one, and the tenant's signature acknowledging receipt of this information shall be included on the lease or rental agreement. The tenant(s) shall receive all subsequent notices herein required. Tenants advised of the intent to convert and who receive all notices distributed once the tenant signs the lease shall not be eligible to receive relocation assistance.
 - 3. Notwithstanding the date of construction of the rental complex proposed for conversion, or the number of rental units or whether the units are decontrolled at the date the application for a tentative map is made, each unit shall be subject to any rent stabilization ordinances adopted by the City of Hayward from the date of notification of intent to convert until the date the unit is sold; provided, however, that this requirement shall cease upon the happening of any of the following events:

- (i) Abandonment of the subdivider's efforts to convert the development as evidenced by formal withdrawal of the application for subdivision approval;
 - (ii) Execution of leases in accordance with paragraphs 1 and 2 of subsection (c).
 - (iii) The tenant voluntarily terminates the lease or rental agreement upon 30-days written notice to the subdivider.
4. With the exception of conversion a rental complex involving three or four dwelling units, each tenant will have a right of occupancy of 180 days from the date of the receipt of a notice from the subdivider that a final map has been recorded; provided, however, that this subsection shall not alter or abridge the rights or obligations of the parties in the performance of their covenants, including but not limited to, the provision of services, payment of rent, or the obligations imposed by sections 1941, 1941.1, and 1941.2 of the Civil Code of the State. For projects involving the conversion of three or four dwelling units, each tenant will have a right of occupancy of 180 days from the date of the filing of the parcel map with the Alameda County Recorder.
5. Each tenant will have an exclusive right or option to contract for the purchase of the dwelling unit or the share controlling the dwelling unit then occupied by the tenant, or any other available unit in the development. For tenants purchasing the unit that they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 10 percent; for tenants purchasing a unit in the development other than the unit they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 5 percent. For conversion projects involving five or more dwelling units, such rights shall run for a period of not less than 90 days from receipt of a notice from the subdivider that a the final map has been recorded, unless the tenant gives prior written notice of intention not to exercise that right; for projects involving three or four units, such rights shall run for a period of not less than 90 days from the date of the recordation of the parcel map. The discount is not applicable to those units that are subject to the City of Hayward Inclusionary Housing Ordinance.
6. No remodeling of the interior of tenant occupied units shall begin without consent of the tenant;
7. No tenant may be evicted without just cause.

(c) Tenant Assistance

1. Leases shall be offered to elderly and disabled tenants whose names appear on the lease or rental agreement, if any, prior to the initial

notice of intent to convert and for the unit they occupy. The leases shall be for five years or one year for every year that the elderly or disabled tenant resided within the unit, whichever is longer. For conversion of projects involving five or more units, such lease rights shall expire no earlier than 180 days from the date of receipt of notice from the subdivider that a the final map has been recorded. For conversion of projects of three or four dwelling units, such lease rights shall expire no earlier than 180 days from the date of the recording of the parcel map with the County Recorder. Leases shall include the following provisions:

- (aa) Tenants shall have the option of canceling the lease at any time upon thirty (30) days' written notice to the owner;
- (bb) Tenants cannot be evicted except for just cause;
- (cc) Right of occupancy shall be nontransferable;
- (dd) The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit at the time of the submittal of an application for a tentative map;
- (ee) Subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lifetime lease, and shall be limited to no more than one per year, and to the annual percentage change in the U.S. Bureau of Labor Statistic's Consumer Price Index (CPI) for the San Francisco Bay Area.
- (ff) Except as provided hereinabove, terms and conditions of the lease shall be the same as those contained in tenant's current lease or rental agreement.

2. Leases of at least six months, or completion of the school year, whichever is later, shall be offered to tenants with a child or children less than 18 years of age residing with them in their unit at the time of the initial notice to convert. Eligible tenants must provide evidence of enrollment and provide the date of the end of the school year in which the students is in attendance. For conversion of projects of five or more dwelling units, such lease rights shall expire no earlier than 180 days from the date of receipt of a notice from the subdivider that a final map has been recorded and any such lease shall be subject to the same conditions as set forth above in paragraph 1 of subsection (c). For conversion of projects of three or four dwelling units, such lease rights shall expire no earlier than 180 days from the date the parcel map is recorded.

3. Assistance to Tenant-Purchasers.

- (aa) Reimbursement shall be made to tenant-purchasers for costs incurred as a result of temporary displacement during

remodeling, including but not limited to, moving expenses and differentials in rents or temporary housing charges.

- (bb) A dwelling unit shall be offered for sale to tenant-purchasers at the price initially offered to the general public, minus 5 or 10 percent. For tenants purchasing the unit that they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 10 percent; for tenants purchasing a unit in the development other than the unit they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 5 percent.
4. Relocation assistance shall be provided to displaced households, who leased or rented the property at the time of the initial notice of intent to convert, in the form of:
- (aa) Reimbursement of \$1000 per household 30 days in advance of moving from the subject property, except that the actual amount of moving expenses shall be paid to elderly and disabled households, up to a maximum of \$2,500.
 - (bb) Payment in the amount equal to three months' rent, based on the highest rent rate having been paid by the tenant, with one-third to be paid one month prior to the move date and the other two thirds paid upon vacating the premises.
- (d) Tentative Map Application Requirements. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the tentative map application the following information:
- 1. One copy each of the notices and other documents to be provided to all tenants pursuant to subsection (a);
 - 2.. Evidence that the tenant assistance requirements are being met.
 - 3. A renter profile listing the names and addresses of current tenants listed on a lease or rental agreement, if any; length of tenancy; and the number of tenants in the project in the following categories:
 - (i) Elderly, being any person who is 65 years of age or older;
 - (ii) Disabled, being any person who has a physical impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment;
 - (iii) Family households, having as members of the household children who are under 18 years of age.
 - 4. A report describing the condition of and estimating the remaining

useful life of the following elements: roof, exterior painting, paved surfaces, central or community heating and air conditioning systems, hot water heaters, and where they are reasonably accessible for inspection, other electrical, plumbing, and mechanical equipment; said report to be prepared by a contractor or engineer who is licensed in the element being reviewed;

5. All information necessary to complete an application to meet the requirements of the City's Inclusionary Housing Ordinance.
- (e) Requirements for Approval of Tentative Maps. No tentative map for the conversion of rental housing units to a Common Interest Development shall be approved unless the following findings are made:
1. The project is consistent with the housing goals and policies of the City of Hayward General Plan;
 2. The project is suitable for conversion to a Common Interest Development as determined by a review of its physical characteristics, including those reports as required by Section 10-3.375;
 3. Tenant Assistance is provided in accordance with subsection (c) of Section 10-3.370.
- (f) Information to be Filed with Final Map or prior to filing of the Parcel Map. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the Final Map or prior to the filing of the Parcel Map the following information:
1. For projects involving five or more dwelling units, one copy of the application for a Public Report filed by the subdivider with the State Department of Real Estate;
 2. For projects involving five or more dwelling units, the proposed organizational documents, including the declaration of covenants, conditions, and restrictions, the proposed sales price of each unit, and the estimated homeowner association dues; for projects involving three or four dwelling units, evidence of a recorded covenant (or other effective means as determined by the Planning Director) of funding long-term maintenance of the common areas.
 3. One copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same;
 4. Evidence that tenant assistance is being carried out in accordance with subsection (c);
 5. One copy of each document described in paragraphs (d) of Section 10-3.370 as approved with the tentative map;

- (g) Requirements for Approval of Final Maps and Filing of Parcel Maps. No final map for the conversion of rental housing units to a Common Interest Development shall be approved and no parcel map shall be filed unless the following findings are made:
1. For final maps, the final map is in substantial conformance with the tentative map;
 2. Each tenant has been or will be given notification as described in subsections (a) and (b) of Section 10-3.370;
 3. Each dwelling unit in the project has been or will be issued a Certificate of Occupancy by the Building Official prior to initial sale of the unit;
 4. Each prospective buyer has been or will be given a copy of each report described in paragraphs 4 of subsection (d) as approved with the tentative map.
- (h) Notice of Subdivision Public Report. Upon receipt of the subdivision public report, the subdivider shall notify, in writing, the Planning Director and each tenant in the rental complex to be converted of the date of issuance of said report, such notification to be accompanied by a copy of a report detailing how tenant assistance is being provided in accordance with subsection (c) and approved with the final map, and copies of notices required by paragraphs 3, 4, and 5 of subsection (b). Where no subdivision public report is required, notification shall occur 60 days prior to offering the first dwelling unit for sale.

SEC. 10-3.375 STANDARDS OF DEVELOPMENT. Except as herein provided, standards in the Municipal Code and the General Plan shall apply, and the standards for improvements within the common area shall be those expressed as conditions to approval of the tentative map and the Site Plan Review approval documents.

- (a) Site Plan Review shall be required and an application submitted therefore with every application for a tentative map for conversion of a rental complex to ownership housing.
- (b) Parking shall be provided in accordance with the City of Hayward Off-Street Parking Regulations in effect at the time the application to convert to ownership housing is deemed complete.
- (c) Prior to sale of units, the applicant shall be responsible for the physical conditions within individual units and common areas. Verification of the integrity of the building(s) shall be included in a report which indicates that the following issues indicated will be adequately addressed and remedied prior to sale of units. In addition, minimum standards will be met that are outlined below, and verification must be provided to the City Planning Director prior to approval of the final map.
- (d) Building Condition

1. The applicant shall submit a report by a licensed civil or structural engineer addressing structural issues with the building(s). This report shall include recommendation for correction of any structural deficiencies, which shall be remedied prior to close of escrow of each unit. Such issues shall include, but not be limited to:
 - (aa) Soft story conditions, as defined in Chapter A4 of the latest edition of the International Existing Building Code.
 - (bb) Lateral movement at walls with garage door openings.
 - (cc) Seismic sufficiency of conditions at sub-floor areas including:
 - i. condition of foundation.
 - ii. attachment of mudsill to foundation.
 - iii. attachment of floor joists to sub-floor area cripple walls.
 - iv. plywood shear walls at corners of sub-floor area.
 - v. Sub-floor ventilation.
2. The applicant shall provide a report by a licensed pest control company. Any work listed on the report shall be completed and cleared by the pest control company prior to occupancy.
3. Fire/Life Safety:
 - (aa) A fire alarm system shall be required per the current California Fire Code and NFPA 72. The Fire Alarm system shall be zoned and have an on-site annunciator panel that will identify the specific fire alarm device that is activated and its specific location. The fire alarm system will be required to have a local alarm and also be supervised by an approved and listed central station monitoring company. All dwelling units shall be required to have hard-wired single station [hard wired with battery (back-up) smoke detectors]. These single station smoke detectors shall not be interconnected with the fire alarm system.
 - (bb) Doors from individual dwelling units opening into an interior corridor shall be part of a listed assembly with a minimum 20-minute fire rating.
4. Electrical:
 - (aa) Each unit greater than 900 square feet shall have an electrical service rated at 100 amps minimum. Each unit less than 900 square feet shall have an electrical service rated at 60 amps minimum.
 - (bb) Electrical circuits and outlets at kitchen and bathroom shall meet current electrical code minimums.

- (cc) All bathroom outlets and all kitchen countertop outlets within 6 feet of a sink shall be GFCI protected.
- (dd) Any new bedroom circuits shall be ARC fault protected.
- (ee) Each kitchen shall have two separate circuits for small appliances.
- (ff) All circuits, panels and metallic water lines shall be effectively grounded: gas lines shall be bonded to the grounding electrode system.

5. Energy:

- (aa) Furnace/heat source shall be not less than 72 percent efficient.
- (bb) All windows within each unit shall be double-paned.
- (cc) All electrical outlets on exterior walls shall have foam gaskets.
- (dd) Install programmable thermostats for all heaters and furnaces.
- (ee) All exterior doors shall be tight fitting and have weather stripping.
- (ff) All plumbing fixtures, including toilets, shall be of water conserving design per the latest California Plumbing Code requirements.

6. Separation of Units and Sound Control:

- (aa) Draft stops shall be installed in attics in line with walls separating units from each other and from corridors, laundry rooms and other jointly used spaces.
- (bb) Sound transmission control shall be in place: provide results of on-site testing showing how State standards will be met or provide gypsum board sheathing mounted on channel on one side of tenant separation walls.
- (cc) Area separation walls that were part of the original construction shall be checked for integrity.

7. Accessibility. Accessibility for persons with disabilities shall be provided in all public areas to the maximum extent feasible. Some of the items to be addressed are:

- (aa) Main entry to each building shall be accessible.
- (bb) An accessible route of travel connecting all accessible elements and common use spaces of a building shall be provided.
- (cc) If visitor parking is provided accessible parking per California Title 24 shall be provided.
- (dd) Where structural or site conditions preclude installation of an accessibility measure, the applicant may apply to the Building Official for a hardship exemption for the specific element under consideration.

8. Laundry facilities shall be provided within each converted rental complex, either communally or within individual dwelling units.
9. No rental projects that do not conform to the density specified by the Zoning Ordinance shall be converted to a Common Interest Development unless the conversion would result in eliminating the non-conforming status of the project related to density.

SEC. 10-3.376 Condition of Equipment and Appliances. For projects involving five or more dwelling units, at such time as the homeowners' association takes over the management of the project, the applicant shall provide a one-year warranty to the association that any pool and/or spa and pool and/or spa equipment (filter, pumps, and chlorinator) and any appliances and mechanical equipment to be owned in common by the association is in operable working condition. The plumbing and electrical systems in both the dwellings and the common ownership areas shall also be covered by a one-year warranty for proper and safe operation and installation in a safe and workmanlike manner. Such warranty shall be offered by an independent homeowner's warranty service licensed by the California Insurance Commission. For projects involving 4 or fewer dwelling units, the warranty shall be provided upon close of escrow of the first dwelling unit.

SEC. 10- 3.377 Contingency Fees. The intent of the City in requiring the creation of a contingency or reserve fund for conversions is to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. Upon the close of escrow for each unit, the applicant shall convey to the homeowners' association contingency fund a minimum fee of \$200 per dwelling unit. When 50 percent or more of the total units in the project have been sold, the applicant, within 30 days, shall convey such fee for each of the unsold units. Such funds shall be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the homeowners' association. In the case of a project without a homeowners' association, as may be the case for projects involving four or fewer dwelling units, a special fund shall be established, outlining use of funds, and requiring signatures of at least two of the owners of record of the units to access the funds,

SEC. 10-3.380 UTILITIES. Each unit shall be individually metered for electricity. Where natural gas is provided to a unit, the unit shall be individually metered for natural gas. Individual water meters shall be installed where feasible, as determined by the Public Works Director. If individual units are not metered, then individual buildings shall be metered. Separate water meters shall be provided for irrigation.

SEC. 10-3.385 ORGANIZATIONAL DOCUMENTS. For all projects, there shall be required covenants, conditions and restrictions (CC&Rs), and the formation of an association or corporation for the purpose of managing and maintaining the project. For developments of three or four dwelling units, a covenant (or similar means) shall be recorded providing for the long-term maintenance of the property. For Common Interest Developments of 15 or more units, a professional property management company, licensed within the State of California, shall oversee the homeowners' association, including budgeting, accounting, and providing for property maintenance.

The CC&Rs shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess

the cost to the association, corporation or individual unit owners. If there is no "Board" that serves an HOA, the provisions herein shall apply to the home owners collectively. In order to accomplish this, the CC&Rs shall contain the following typical statements:

In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.

It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the regulations and ordinances and other laws.

It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.

The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a

declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.

The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.

SEC. 10-3.392 INFORMATION TO PRECEDE FINAL MAP SUBMISSION. The following information shall be submitted for review prior to submittal of the final map.

- (a) Copy of applicant's proposed application for subdivision permit, in the event a permit is required, from the California State Department of Real Estate;
- (b) Proposed sale price of each unit;
- (c) A report describing the manner in which the terms of the declaration of restrictions will guarantee responsible maintenance and repair of the common areas, notwithstanding the escalation of costs, emergency maintenance repairs, and the replacement of major mechanical and electrical equipment;
- (d) A copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same.

SEC. 10-3.395 PREPARATION AND FORM OF FINAL MAP. Where five or more dwelling units within a rental complex are being converted to a Common Interest Development, a final map will be required. In addition to the other requirements for a certificate sheet, the title shall contain in bold letters an indication that this is a Common Interest Development, and specify the number of units.

DEDICATIONS AND RESERVATIONS

SEC. 10-3.400 DEDICATION FOR STREETS AND UTILITIES. As a condition of approval of a map, the subdivider shall dedicate or make an irrevocable offer of dedication of the following:

- (a) All parcels of land within the subdivision that are needed for streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements.
- (b) All parcels of land within the subdivision that are needed for local transit facilities such as bus turn-outs, benches, shelters, landing pads, and similar items within the limitations of section 66475.2 of the Subdivision Map Act.

SEC. 10-3.405 SCHOOL SITE DEDICATIONS. As a condition of approval of a final map, a subdivider who develops or completes the development of one or more subdivisions within the local school district shall, within the limitations of section 66478 of the Subdivision Map Act, dedicate to the school district such lands as the City Council shall deem necessary for the purpose of constructing thereon schools necessary to assure the residents of the subdivision adequate elementary school service.

PROVISION	HAYWARD (PROPOSED)	FREMONT	DUBLIN	SAN LEANDRO
Accommodating Seniors	5-year lease or one-year lease per year of tenancy, whichever is longer.	Up to 5-year lease or 5 months' rent for seniors having resided on premises 2 years or more.	Treated like other tenants.	Lifetime lease.
Accommodating the Disabled	5-year lease or one-year lease per year of tenancy, whichever is longer.		Payment equivalent to 3 months' rent.	Lifetime lease.
Accommodating Families with Students	6-month lease or until end of school year, whichever is later.			12 months' relocation time.
Tenant Relocation Assistance	\$1000 plus amount equal to 3 months' rent.	Amount equal to 3 month's rent for tenants having resided in unit for one year, within 5 days of vacating premises.	Tenant Relocation Assistance Plan.	Amount equal to 3 month's rent, When tenant moves prior to City approval of the use permit, eligibility to receive moving expenses is forfeited.
Tenant Purchasers	First right to purchase; 10% discount on their own unit; 5% discount on other unit in complex.	First right to purchase; 5% discount; may result in reduced interior improvements. Tenants must have lived there 2 years to qualify.	First right to purchase at price offered to general public or better.	First right to purchase unit occupied at a discount of the price offered to the general public. Amount of discount based on longevity of tenant.
Cap of Number to Be Converted	None.	100 units per year.	Cannot exceed 7% of number of multi-family units (in developments of 21 units or more).	None.

PROVISION	HAYWARD (PROPOSED)	FREMONT	DUBLIN	SAN LEANDRO
Physical Elements	Specific applications. No blanket (e.g. UBC) Codes.	Current Building and Fire Codes, unless otherwise specified.	"Statement of repairs and improvements necessary to refurbish and restore the project to achieve a high degree of appearance, quality and safety." Must meet "current Housing Code."	Compliance with Zoning, Building, Housing, Mechanical, and Fire Codes.
Noise and Vibration	Draft stops in attics, sound transmission to meet State standards or provide gypsum board sheathing on one side of walls common to other units.	Interior and exterior sound transmission standards: those in effect at the time of application.	" " " " " "	Common walls and common floor ceiling between units shall be constructed to meet a sound transmission coefficient rating of 55 or higher.
Soft-Story	Meet International Existing Building Code, check lateral movement at walls with garage door openings; seismic sufficiency at sub-floor areas.	Structural retrofit of soft story buildings.	" " " " " "	Current Building Code.
Fire Protection	Fire alarm system per current Cal. Fire Code and NFPA 72. Hard wired smoke detectors.	Current Fire Code.		A sprinkler system, fire alarm, and other fire protection devices.

PROVISION	HAYWARD (PROPOSED)	FREMONT	DUBLIN	SAN LEANDRO
Metering	Separate electric meters and separate gas meters when gas provided to units. Separate water meters unless infeasible.	Separate gas, electric and water meters.	Separate gas meters unless unreasonable burden. Electric meters required.	Separate gas and electric meters. A plan for the equitable sharing of communal water metering and other shared utilities shall be included in the CC&Rs.
Parking	Current parking requirements.	Current parking Requirements.		All applicable parking requirements.
Maintenance Contribution	Upon the close of escrow for each unit, the applicant must convey to HOA contingency fund a min. of \$200 per unit. When 50% or more of the units have been sold, the applicant must convey, within 30 days, such fee for each of the unsold units.	Equal to 3 years annual maintenance costs.		Upon the close of escrow for each unit, the applicant must convey to HOA contingency fund a min. of \$200 per unit. When 50% or more of the units have been sold, the applicant must convey, within 30days, such fee for each of the unsold units.
Rent Freeze	Units subject to rent stabilization ordinance.	6 months.	12-months.	No increase within 2 months prior to project application, nor for 2 years following application.